

Journal - Office of Legislative Counsel
 Wednesday - 18 June 1975

Page 2

CIA INTERNAL USE ONLY

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25X1 6. (Confidential - LLM) Accompanied [] to a session with Tim Ingram and Bob Finks of Representative Bella S. Abzug's (D., N.Y.) Subcommittee on Government Information and Individual Rights, House Government Operations Committee, concerning the allegation that CIA participates in a secret computer network which exchanges biographic information on Americans. There are three follow-up items (see Memorandum for the Record by [] Ingram said that Ms. Abzug is determined to have Mr. Colby testify before the Subcommittee before the recess starting next Friday and suggested either 9:00 a.m. on Tuesday, 24 June, or Thursday, 26 June. Ingram patiently listened to all my arguments, that I thought this was not necessary, including the possibility that an exchange of correspondence would accomplish anything that could be accomplished by further testimony, but he said Ms. Abzug was very determined to have Mr. Colby appear before Friday and asked that we get back to him tomorrow morning so he can make the necessary preparation and alert to Subcommittee members. The areas of interest are: explaining "inadequacy in prior testimony when compared to the Rockefeller report," the question of Agency exemption from the Privacy Act, the report we would issue in the Federal Register pursuant to the Privacy Act on systems of records, etc., and our experience under the Freedom of Information Act to date. He also promised to provide a list of additional questions which he thinks might come up. I told him I thought it was essential that we at the staff level agree on suitable exemption language before we get our principals involved in this again and he agreed, but he said he wasn't fully satisfied with an exemption based on intelligence sources and methods and was having Jim Kronfeld draft some language and he will get together with us on it as soon as possible. I said as long as we were dealing with these subjects, in line with an interest expressed by some members of the Subcommittee during Mr. Colby's previous testimony it might be we should get into a fuller exemption from the Freedom of Information Act along whatever lines we work out under the Privacy Act.

7. (Internal Use Only - DFM) Called Ron Kienlen, OGC/OMB regarding their referral of the proposed E.O. 11030, which would authorize the Civil Service Commission to establish compliance regulations for all civilian federal agencies. I reported that we had no objection to the issuance of the order but were interested in the seeming enthusiasm for a separate allotment system. He explained the rationale behind the proposed allotment system, which I subsequently passed along to [] OF, who originally 25X1 inquired about it.

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OGC 75-2193

11 June 1975

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MEMORANDUM FOR: , Assistant Legislative Counsel

SUBJECT : Proposed Executive Order No. 11030 --
Delegation of Authority, etc.

1. The proposed Executive Order would delegate authority to the Secretary of Defense and the Civil Service Commission (CSC) to issue regulations implementing the Order and section 459 of the Social Security Act, which makes the Government amenable to garnishment for child support and alimony obligations of its employees, armed forces personnel and civilian and military annuitants.

2. While there might be some advantages in obtaining authority in the proposed Executive Order for the Agency to issue its own regulations in this matter, independent of the CSC, we believe the disadvantages outweigh the advantages. The Office of Management and Budget may not support our request for authority independent of the rest of the Government. Second, even if we did obtain such authority, we would "stick out like a sore thumb" in the Executive order and perhaps encourage a deluge of garnishment requests, etc. before we had an opportunity to write our regulations and, as we would probably have to do, publish them in the Federal Register. Third, we are in contact with the Chairman of the Ad Hoc Interdepartmental Committee on the Implementation of Section 459 (who is the Chief of the General Claims Section, Civil Division, Department of Justice) and the CSC's Office of General Counsel, and we suggest that any special provisions we may need to protect "cover" can probably best be obtained in a low-key approach to the Commission, which in the past has been understanding of our somewhat unique problems.

3. The Chairman of the Ad Hoc Committee is sending this Office a copy of the proposed regulations for our review and comments. He also informed the undersigned that the Department of Justice will probably seek additional legislation to "clarify" the congressional intent of section 459. For example, right now there are states which through their garnishment proceedings can take an individual's full salary for child support/alimony. There are obvious sound policy reasons why the Government does not want this to happen to its employees. Hopefully, Congress will place a limit on the per cent of salary which may be garnished and will allow an administrative remedy to be established (and exhausted) in lieu of the present situation which in a sense forces litigation. A paper written by the undersigned in late April 1975 concerning section 459 is attached for your information.


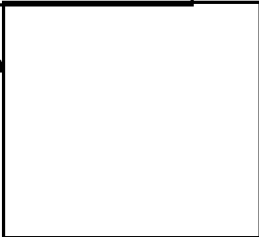
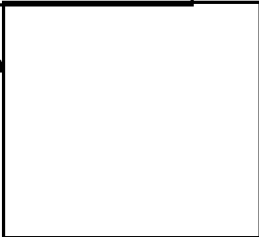
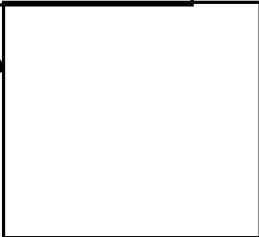
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4. We have no legal objection to the proposed Executive Order.



Assistant General Counsel

Attachment

cc: C/CCS, Attn: 
D/Security, Attn: 
D/Personnel, Attn: 
D/Finance, Attn: 

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OGC 75-1640

22 April 1975

MEMORANDUM FOR THE RECORD

SUBJECT: Social Services Amendments of 1974 -- Attachment
of Federal Remuneration for Certain Purposes

1. Public Law 93-647 (88 Stat. 2337, January 4, 1957), known as the Social Services Amendments of 1974, amends the Social Security Act (42 U.S.C.A. 301 et seq.) and establishes a consolidated program of Federal financial assistance to encourage provision of social services by the states. The Act also provides for a tax credit for low-income families (work bonus) and the child support program. The latter is designed to assure an effective program of child support. It leaves the basic responsibility for child support and for the establishment of paternity to the states, but provides for a more active role on the part of the Federal Government in monitoring and evaluating state programs, in providing technical assistance, and in certain instances, in undertaking to give direct assistance to the states in locating absent parents and obtaining support payments from them.

2. The Act amends Title IV of the Social Security Act by adding several new sections, including one, section 459, which provides that:

Notwithstanding any other provision of law, effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States (including any agency or instrumentality thereof and any wholly owned Federal corporation) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments.

3. According to the legislative history of the Act, the purpose of this section is to permit the wages of Federal employees, civilian and military, to be subject to garnishment for child support and alimony payments. In addition, annuities and other payments under Federal programs in which entitlement is based on employment are also subject to garnishment for these limited purposes. The provision is applicable whether or not the person on whose behalf the garnishment proceeding is brought is on the welfare rolls. The amendment overrides provisions in various Federal social insurance or retirement laws which prohibit garnishment.

4. On 21 April 1975, I spoke with Mr. Daniel Shapiro, Office of the General Counsel, Civil Service Commission (CSC) concerning the garnishment provision of the Act. It appears that Mr. Shapiro's sole responsibility is to handle the impact of the new law on the Commission. Mr. Shapiro explained that within the next few weeks the Commission will issue a Federal Personnel Manual (FPM) Letter or Bulletin concerning the garnishment provision of the Act. He classified the issuance as "rather meaningless" and only designed to "calm" departmental personnel officers. The question of how the Government will respond and what documentation, etc. will be required to effect garnishment is being worked out by a Government-wide committee which is chaired by the Chief of the General Claims Section, Civil Division, Department of Justice, and composed of Mr. Shapiro, attorneys from HEW, DOD and Treasury and a representative from OMB. The committee is trying to devise a Government-wide administrative process for handling what apparently already is a flood of requests for garnishment. (Mr. Shapiro indicated he has already received "hundreds" of letters and telephone calls concerning garnishment.) The position of the Department of Justice is that it wishes to avoid involving the U.S. Attorneys in these cases, and therefore, wishes to establish a uniform system in the Government for handling them.

5. There are a number of points which should be noted before stating what the interim procedures are for garnishment. (It should be stressed that these are interim procedures in effect until the Committee mentioned hereinabove works out Government-wide policies and until we in the Agency can adapt these policies to our unique problems.) First of all, garnishment is a statutory proceeding whereby a person's property or money in the possession of, under control of, or owing by another are applied to payment of the former's debt to a third person by proper statutory process against debtor and garnishee. P.L. 93-647 does not create a separate Federal

garnishment law but subjects Federal employees to state laws of garnishment. Therefore, garnishment is known by different terms (attachment, employer action, etc.), and each state has a somewhat different body of law with regard to garnishment. This results in different rules for what income may be garnished and what legal process must be followed to obtain a garnishment order. For example, some state laws exclude annuities and pensions from garnishment; thus, the annuity of a CIARDS or CSR annuitant may not be garnished in these states.

6. Another point to note is that garnishment is not an administrative remedy but only results from legal process. A letter from a lawyer or an allegedly aggrieved individual stating that so-and-so is in arrears in the payment of child support and/or alimony does not compel the Government (employer) to garnish wages or an annuity. The garnishment action must be initiated by the aggrieved party and not by a state. (If a state seeks to garnish a Federal employee's salary or a retired or disabled individual's annuity it cannot proceed under section 459 but it must proceed under section 460 of the Act. The regulations pertaining to this section apparently will be issued by HEW.)

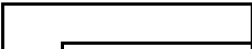
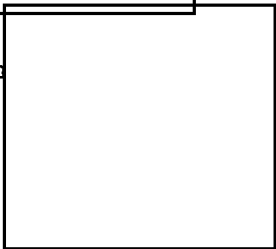
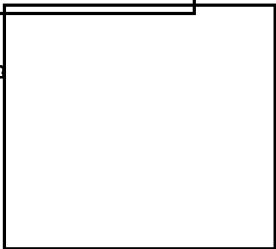
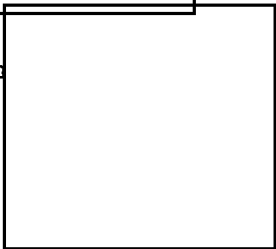
7. Under the interim procedures established by the Commission, the Commission will garnish a salary or an annuity and send a separate check to the aggrieved, provided it receives a certified copy of the court order of garnishment, a certified copy of the underlying agreement ordering alimony and/or child support, and a certificate (under oath) from the court issuing the garnishment order or the aggrieved that the aggrieved is entitled to the enforcement of the alimony/child support order immediately. (According to Mr. Shapiro, it may take as long as six weeks after the General Counsel's Office has reviewed and approved the documentation for the Commission's finance office to begin to send checks to the garnishor.)

8. Mr. Shapiro concluded our conversation on 21 April by stating he would keep me informed on developments in this area. He suggested the undersigned contact the Department of Justice to see if it will send us a copy of its draft regulation in which it attempts to explain how to deal with the issue of garnishment.

9. The undersigned recommends that all requests for garnishment, whether they be letters from lawyers or individuals or any court documents, be sent to this Office for our review and comments. The undersigned also recommends that until final procedures are established by DOJ and can be adapted to this Agency's needs, that we follow the procedure set forth in Paragraph 7, above. The undersigned will be in contact with DOJ.

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Assistant General Counsel

cc: C/CCS, Attn: 
D/Security, Attn: 
D/Personnel, Attn: 
D/Finance, Attn: 

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OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1			
2	Assistant Legislative Counsel 7D 35, Headquarters		
3			
4			
5			
6			

ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks:

The Deputy Director of Personnel has asked me to relay to you that we see no problem with the Executive Order as drafted. The CSC guidelines (when drafted) will deserve close scrutiny.

TO RETURN TO SENDER	
ADDRESS AND PHONE NO.	DATE
Executive Assistant Office of Personnel, 5E 58, Hqs.	1 JUN 1975

UNCLASSIFIED CONFIDENTIAL SECRET

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED		CONFIDENTIAL	
OFFICIAL ROUTING SLIP			
TO		DATE	INITIALS
1	Assistant Legislative Counsel		
2	7D35 Headquarters		
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APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
ATT: DD/A 75-2717			
Remarks:			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
A/EO-DD/A			10 June
CONFIDENTIAL			SECRET

ADMINISTRATIVE - INTERNAL USE ONLY

09 JUN 1975

MEMORANDUM FOR: Acting Executive Officer, Deputy Director for Administration

SUBJECT : Proposed Executive Order Re Garnishments

REFERENCE : Letter to DCI fm General Counsel OMB, dtd 28 May 75, Same Topic

1. We have no objection to the issuance of the proposed Executive Order. We shall of course also wish an opportunity to review the regulations which are subsequently developed in implementation of this order.

2. It may be of particular interest to speculate in terms of "handwriting on the wall" as to the intent of the last sentence of Section 3 of the proposed order:

"Such regulations shall authorize and encourage the execution of allotments to meet the family support obligations of all individuals covered by this Order and shall enunciate standards of conduct respecting the support obligation of individuals subject to this Order who are currently employed by the United States or who are currently members of its Armed Services."

It would appear this proviso could put the Government in the allotment business for purposes other than garnishment. If so it would have a distinct impact on our payroll operations.

[Redacted Signature Box]

Thomas B. Yale
Director of Finance

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ADMINISTRATIVE - INTERNAL USE ONLY

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Garnishment - Family Support

FROM:

Director of Personnel
5E 58, Headquarters

EXTENSION

NO.

DATE

5 JUN 1975

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

RECEIVED FORWARDED

1. Office of Legislative Counsel
7D 35, Headquarters

2. ATTN:

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The Office of Personnel favors early publication of the proposed Executive Order and subsequent CSC regulations implementing Section 459 of the Social Security Act. We are receiving inquiries regarding the provisions of Section 459 and must be in a position to respond as soon as possible. The Section should be interpreted in a uniform manner by all departments and the issuance of CSC regulations appears necessary.

Director of Personnel

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ACTION		DIRECT REPLY		PREPARE REPLY	
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Remarks: <p>OMB has asked for our comments by June 18th on the attached proposed Executive Order. The Order would authorize the Civil Service Commission to issue regulations for all civilian Government agencies to implement the recent law authorizing garnishment of Federal employees' wages for child support or alimony obligations. May I please have your views on the proposed Executive Order by June 10th? Thank you.</p> <div style="text-align: center; margin-top: 20px;"> <div style="border: 1px solid black; width: 150px; height: 20px; margin: 0 auto;"></div> <p>Assistant Legislative Counsel</p> </div>					
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FORM NO. 1-67 **237** Use previous editions

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

GENERAL COUNSEL

1166
alc 75-#116
May 28, 1975

Honorable William E. Colby
Director
Central Intelligence
Agency
Washington, D. C. 20505

Dear Mr. Colby:

Herewith, in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "Delegation of Authority to Issue Regulations With Respect to Section 459 of the Social Security Act and the Support Obligation of Certain Employees of the United States and Members of Its Armed Forces."

This proposed Order, along with the enclosed transmittal letter, was submitted by the Chairman, Ad hoc interdepartmental committee on the implementation of Section 459 of Re Social Security Act.

On behalf of the Director of the Office of Management and Budget, I would appreciate receiving your comments concerning this Executive order. Comments or inquiries may be submitted by telephone to Mr. Ronald A. Kienlen (395-5600; IDS 103-5600). I will assume that you have no objection to the issuance of this proposed Order if your comments have not been received by Wednesday, June 18, 1975.

Sincerely,

for *William M. Nichols*
Calvin J. Collier
General Counsel

Enclosures



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

May 15, 1975

Address Reply to the
Division Indicated
and Refer to Initials and Number

RC:ls
137-012
77-012

Hon. William Nichols
Deputy General Counsel
Office of Management and Budget
Room 464 Executive Office Bldg.
Washington, D. C. 20503

Re: Executive Order implementing recent legis-
lation providing for garnishment of
"remuneration for employment" of Federal
employees, servicemen and retirees.

Dear Mr. Nichols:

Pursuant to the telephone conversation between you and Mr. Irving Jaffe, Acting Assistant Attorney General for the Civil Division of the Department of Justice, I enclose a copy of a draft Executive Order for your consideration and for appropriate clearance.

As you know, Section 101(a) of Public Law 93-647 added a new section 459 to the Social Security Act (42 U.S.C. 659) making the Government amenable to garnishment for child support and alimony obligations of its employees and service personnel. Enactment of this provision was unexpected so that no advance preparations were made. The language of the section is so cryptic that there were bound to be many problems with the legislation.

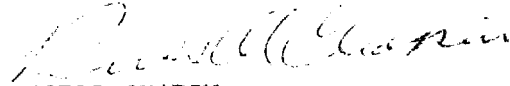
Agency responses to this legislation are likely to vary widely and there has been great uncertainty on the part of lawyers in the private sector over how to proceed. Thus there is a need for regulations to implement this new legislation and to standardize the response of the numerous agencies in the Executive Branch which are subject to the legislation. Issuance of an Executive Order to authorize the promulgation of regulations is a necessary first step toward the proper implementation of this legislation.



- 2 -

The attached proposed Executive Order is the draft which Mr. Jaffe discussed with you. If I can be of any assistance at any time please let me know. I can be reached on 739-3322. Thanks!

Sincerely,



RUSSELL CHAPIN

Chairman, Ad hoc interdepartmental
committee on the implementation of
section 459 of Re Social Security Act

Attachment

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